

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 7762 of 2004

Between:

A.P. Genco, rep by its General Manager (Adm.)
Vidyut Soudha, Khairatabad, Hyderabad.

..... PETITIONER

AND

1. The Assistant Director, Employees' State Insurance Corporation, Padmanabha Buildings, II Floor, 14-20-27, Gandhinagar, Vijayawada - 3.
2. The Joint Director, Employees' State Insurance Corporation, Padmanabha Buildings, II Floor, 14-20-27, Gandhinagar, Vijayawada - 3.
3. The Regional Director, State Insurance Corporation, Regional Office, 6-9-23, Hill Fort Road, Hyderabad - 63.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue, a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned proceedings NO. AP/SRO/VJA/MEC/62-16331-95, dated 6-4-2004, issued by the first respondent under Section 45-A of the ESI Act 1948, as illegal and unenforceable.

Counsel for the Petitioner: SMT.K.SESHARAJYAM

Counsel for the Respondents.: Sri P. RAJASEKHAR

The Court Made the Following :

ORAL ORDER:-

The 1st respondent, by an order dated 06-04-2004 directed the writ petitioner to pay E.S.I. Contributions in an amount of Rs. 2,43, 619-00 (Rupees two lakhs forty three thousand six hundred and nineteen only) for the period from 01-04-1997 to 31-03-2002 holding the writ petitioner liable as principal employer and also to pay the aforesaid amount with interest at 15% per annum till the date of payment. These E.S.I. amounts were payable by the contractors employed by the writ petitioner towards E.S.I. contributions for the benefit of individual employees employed by such contractors for the works of the petitioner. One of the grievances urged in the writ petition that no such determination could have been made by the 1st respondent without the contractors concerned being a party to the proceedings. Under the provisions of Section 75 of the Employees' State Insurance Act, 1948 (for short 'the Act'), as against the decision impugned herein, the petitioner has an appellate remedy to the Employees' Insurance Court. In a context of such an appellate remedy being available, this court does not consider it appropriate to exercise its jurisdiction under Article 226 of the Constitution of India. The Employees' Insurance Court is specialized Tribunal constituted for adjudication of disputes arising under the provisions of the Act. The appellate remedy is an alternative and efficacious remedy. No case is made out for interference under Article 226 of the Constitution of India without the aggrieved party availing the alternative appellate remedy. On the analysis above, the writ petition is dismissed, but with liberty preserved in the writ petitioner to pursue the available appellate remedy under Section 75 of the Act. No costs.

GODA RAGHURAM, J

Dt. 06-07-2004

Pvks/*

To

1. The Assistant Director, Employees' State Insurance Corporation, Padmanabha Buildings, II Floor, 14-20-27, Gandhinagar, Vijayawada - 3.
2. The Joint Director, Employees' State Insurance Corporation, Padmanabha Buildings, II Floor, 14-20-27, Gandhinagar, Vijayawada - 3.
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